

**AMENDED RULES & REGULATIONS
FOR PROVISIONAL VOTING ADOPTED BY THE
RHODE ISLAND BOARD OF ELECTIONS**

The Rhode Island Board of Elections hereby amended the within rules and regulations relating to provisional voting pursuant to and in accordance with the Help America Vote Act of 2002 (“HAVA”) (P.L. 107-252) and sections 17-7-5 et seq.- and 17-19-24.1 et seq. of the Rhode Island General Laws of 1956, as amended.

Said rules and regulations were amended pursuant to the Administrative Procedures Act (R.I.G.L. §42-35 et seq.) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

Section 1. Purpose

The within rules and regulations were hereby adopted by the Board of Elections for the purpose of amending the procedure for the casting, certification and tabulation of provisional ballots pursuant to the requirements of the Help America Vote Act of 2002, hereinafter referred to as (“HAVA”).

Section 2. Definitions

“Ballot Identification Number” or “Ballot ID No.” shall mean the number appearing on a “Provisional Ballot Application” and which is unique to the application. The number shall be used by election officials to process an individual’s provisional ballot and shall be used by the individual to determine the disposition of his/her ballot. The identity of the individual assigned the number shall be confidential.

“Board of Canvassers” or “Local Board” shall mean the board of canvassers in a city or town.

“Board of Elections” or “State Board” shall mean the Rhode Island Board of Elections.

“CVRS” shall mean “Central Voter Registration System” which identifies voters statewide.

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“Disqualified Ballot” shall mean a provisional ballot executed by an individual who is ineligible to vote in the election that the ballot was cast or a provisional ballot that is inserted into the voting machine.

“Federal Office” shall mean President of the United States, Vice President, Senator, Representative, or Presidential Delegate to the Congress.

“Federal Offices Only Ballot” shall mean a ballot executed by an individual who is deemed eligible to vote for federal offices only in the election at which the ballot was cast.

“Full Ballot” shall mean a ballot executed by an individual who is deemed eligible to vote for all offices and questions appearing on the ballot in the election at which the ballot was cast.

“Provisional Ballot” shall mean a ballot cast by an individual meeting the eligibility requirements set forth in these rules and regulations.

“Provisional Ballot Application Packet” shall mean the documents prescribed in these rules and regulations and executed by a voter seeking to cast a provisional ballot and used by the local board to determine the disposition of a provisional ballot.

“Voting District” or “Precinct” shall mean the geographical subdivision within a city/town assigned to voters pursuant to §17-11-1.

Section 3. Voter Information - Public Posting

Election officials at each precinct shall publicly post on the day of each election voting information that shall include:

- a) a sample version of the ballot used in the election;
- b) information regarding the date of the election and the hours during which the polling places are open;
- c) instructions on how to cast a vote and instructions on how to cast a provisional ballot;
- d) instructions for mail registrants and first-time voters;
- e) general information on voting rights and prohibitions regarding acts of fraud and misrepresentation under Federal and State law, information on the right of an individual to cast a provisional ballot and instructions on how to contact an election official if an individual's rights have been violated.

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Section 4. Provisional Voting – Eligibility & Information

A. Eligibility

An individual shall be eligible to cast a provisional ballot if:

- 1) The individual declares that he/she is a registered voter and eligible to vote in the precinct but is informed by an election official on election day that the individual's name does not appear on the official list of registered voters for the precinct or the that the individual's name is listed in another precinct of the city/town. Except voters who file voter affirmation forms under R.I.G.L 17-9.1-16.
- 2) The official list of registered voters indicates the voter has applied for a mail/emergency ballot; or
- 3) An election official asserts that the individual is not eligible to vote (including partisan and non-partisan primaries); or
- 4) The individual registered to vote by mail but is unable to provide the required identification prior to or at the time of voting.

An individual who qualifies to cast a provisional ballot shall receive "Notice – Provisional Voting Information" from an election official.

B. Information

The "Notice - Provisional Voting Information" shall include the following information:

- 1) disposition of an individual's provisional ballot shall be:
 - a) counted as a full ballot if an individual is a registered voter in the city/town and precinct;
 - b) federal offices only will be counted if the individual is a registered voter in the city/town and proper congressional district, but not the precinct; or
 - c) the ballot will be disqualified if the individual is not a registered voter in city/town or is in the wrong congressional district in which the individual casts his/her ballot; or
 - d) the ballot will be disqualified if it is determined that the individual is a first-time voter who has registered to vote by mail after January 1, 2003 and has not submitted the required form of identification to the local board or the Board of Elections by 9:00 p.m. on the day of the election; or
 - e) if the individual has cast a mail ballot, emergency ballot or military ballot in the same election the ballot will be disqualified; and

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- 2) Instructions on how the individual may determine the disposition of his/her ballot, including whether or not the vote was counted and the reason for any disqualification
- 3) Information stating that the provisional ballot will be disqualified if it is inserted into the voting machine.

Section 5. Provisional Ballot Application And Instructions

A. Provisional Ballot Application

The “Provisional Ballot Application” shall include the following:

Section A:

- The Ballot identification number;
- A location for an election official to include the name of the city/town and precinct number where the ballot is being cast; and
- A location for the local board to indicate the disposition of the provisional ballot.

Section B

- Rhode Island Voter Registration Form (“RI Registration Form”).

Section C

- Ballot ID number
- Voter Attestation clause, where the provisional voter shall attest that he/she is a registered voter in the city/town & precinct and is eligible to vote in the election and acknowledges that inserting a provisional ballot into the voting machine will result in its disqualification;
- A location for the date of the election;
- A location for an election official to cite the reason an individual has been given a provisional ballot; and
- A location for the local board to indicate the disposition of the provisional ballot.

Section D “Provisional Ballot Receipt” (“Receipt”) shall include:

- the ballot identification number; and
- instructions on how the individual may determine whether his/her vote was counted and the reason for ruling that a ballot is limited to “Federal Offices” only or “Disqualified”.

The Board of Elections may include any additional items on the “Provisional Ballot Application” consistent with state or federal laws.

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B. Instructions For Casting A Provisional Ballot

- 1) An individual who is eligible to cast a provisional ballot shall receive from a election official the “Notice – Provisional Voting Information”
- 2) When an individual chooses to vote a Provisional Ballot the election official shall provide a “Provisional Ballot Application” to the individual
- 3) Each provisional voter shall complete and submit the voter portion of the “Provisional Ballot Application” to an election official.
- 4) The election official upon completing section “C” shall provide the individual a ballot marked “Provisional” in red ink, a ballot secrecy sleeve and a provisional ballot envelope that has printed instructions on how to cast a provisional ballot. The election official shall then directs the individual to a privacy booth.
- 5) The individual shall “vote” his/her provisional ballot by using the marking device provided, connecting the head and tail of the arrow on the computer ballot next to the party, candidate, write-in candidate or ballot question, as is applicable, for whom the voter wishes to cast his/her ballot (Note: A provisional ballot that is incorrectly marked by the voter shall be returned to the election official. The ballot will be marked void by the election official and deposited in the receptacle for void ballots. The individual will then be issued a new ballot marked ‘Provisional’.
- 6) Upon completing the ballot the individual shall place the ballot in the “Provisional Ballot Envelope” and seal the envelope containing the voted ballot. The individual will then return the “Provisional Ballot Packet” that includes the sealed provisional ballot envelope and affixed application to the election official who shall:
- 7) The election official shall confirm that the city/town and precinct number is entered onto the provisional ballot application and remove Section D (the provisional ballot receipt) and present it to the voter, who shall retain the “Provisional Ballot Receipt” as well as the “Notice – Provisional Voting Information.”
- 8) The election official shall place the “Provisional Ballot Packet” into the receptacle for provisional ballots.

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Section 6. Processing And Certifying Provisional Ballots

Provisional ballots cast at a precinct shall be transmitted to the board of canvassers in each city/town pursuant to the manner prescribed by the Board of Elections. Said ballots shall be processed and certified by the board of canvassers in the city/town in which they were cast.

A. Processing Provisional Ballots

The local board shall process the provisional ballots cast in the city/town in the following manner.

- 1) Upon receipt of the provisional ballot receptacles from each precinct the local board shall separate, sort by precinct and secure said ballot receptacles.
- 2) On a precinct by precinct basis the local board shall proceed to open the provisional ballot receptacles and remove the “Provisional Ballot Envelopes.” The local board shall verify that each envelope has the correct city/town and precinct ID number. The local board shall determine the disposition of each provisional ballot within each precinct pursuant to the requirements and procedures set forth in Subsection 6(B).
- 3) Within forty-eight (48) hours following the election the local board will determine the disposition of the provisional ballot and enter the required information into the CVRS and shall:
 - a) Detach and retain Section B, RI Registration Form and Section C, Voter Attestation (which shall remain affixed to each other) of the “Provisional Ballot Application” (Note: Section A shall remain affixed to the “Provisional Ballot Envelope”; see Subsections 6(A)(4) of these rules and regulations for instructions on processing Sections B and C of the “Provisional Ballot Application”);
 - b) The local board shall sort the provisional ballots cast at a precinct by disposition (i.e. all qualified “Full Ballots” on top followed by all qualified ballots for “Federal Offices Only”) and place the qualified provisional ballots into the provisional ballot receptacle from which they were delivered. Disqualified ballots are retained and stored at the local board for 22 months.
 - c) When the certification process is completed for each precinct the local board shall sort the provisional ballot receptacles in order by precinct and transfer them to the Board of Elections within twenty-four (24) hours of the election.
- 4) After Section B - RI Voter Registration Form and the provisional ballot data is entered into the CVRS the local board shall file Section B in the same manner as other RI Voter Registration forms. Section C Voter Attestation of the “Provisional Ballot Application” will be sealed in an envelope labeled “Provisional Ballots – Attestation” which shall remain sealed for twenty-two (22) months after the date of the election.

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B. Certifying Provisional Ballots

The local board shall determine the disposition of a provisional ballot as follows:

- 1) If the individual's name, date of birth and city/town can be reasonably identified in Section B – RI Registration Form of the “Provisional Ballot Application” in the CVRS the individual shall be an eligible voter in the city/town and vote pursuant to (a) or (b) below.
 - a) When the street address on the “Provisional Ballot Application” matches the street address on the CVRS or the street address on the “Provisional Ballot Application” is in the same precinct as the street address on the CVRS. the local board shall indicate on Section A – Provisional Ballot Application “Full Ballot,” unless the individual requested a mail/emergency ballot.
 - b) When the street address on the “Provisional Ballot Application” does not match the street address on the CVRS and the street address is located outside of the precinct where the provisional ballot was cast the local board shall indicate on Section A – Provisional Ballot Application “Federal Offices Only,” except in the City of Providence, where the street address on the “Provisional Ballot Application” does not match the street address on the CVRS and is located outside the Congressional District where the provisional ballot was cast, the individual shall be eligible to cast a ballot for the offices of United States President, Vice President and Senator, the local board shall so indicate on Section A - Provisional Ballot Application, unless the individual requested a mail/emergency ballot.
- 2) If the name, date of birth and city/town in Section B - RI Registration form matches the name, date of birth and city/town with an individual who has surrendered or rescinded his/her mail ballot or emergency ballot for the same election to the local or state board, and the CVRS system confirms surrender or rescinding of said ballot the local board shall determine the disposition of the provisional ballot in the same manner as B(1) of this section.
- 3) If the name, date of birth and city/town on the Section B - RI Registration form matches the name, date of birth and city/town with an individual who has requested and cast a mail/emergency ballot and the CVRS confirms the receipt of the ballot the local board shall indicate “disqualified” on Section A – Provisional Ballot Application, and place the ”Disqualified Provisional Ballot Envelopes” cast within a city/town into a sealed container for storage in accordance with §17-19-39.1.
- 4) If on the “Provisional Ballot Application” the reason for casting the provisional ballot is “Voter did not present required identification,” and the voter has not submitted the required form of identification at the local board by 9:00 p.m. on

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election day, the local board shall indicate “disqualified” on Section A – Provisional Ballot Application, and place the “Disqualified Provisional Ballot Envelopes” cast within a city/town into a sealed container for storage in accordance with §17-19-39.1.

- 5) If on the “Provisional Ballot Application” the reason for casting the provisional ballot is “Voter did not present required identification” and the voter has presented the required form of identification at the local board by 9:00 p.m. on election day, the ballot shall be given a disposition according to the criteria indicated in **Sec. 6(B)** of these regulations and the local board shall indicate the disposition on Section A - Provisional Ballot Application.
- 6) If the individual’s name, date of birth and city/town in Section B – RI Registration Form of the “Provisional Ballot Application” cannot be reasonably identified in the CVRS, the local board shall indicate “disqualified” on Section A - Provisional Ballot Application, and place the “Disqualified Provisional Ballot Envelopes” cast within a city/town into a sealed container for storage in accordance with §17-19-39.1.
- 7) Mail ballots of first-time registrants received by the Board of Elections that do not include the required identification shall be provisional ballots and “disqualified”, unless the required identification is received by 9:00 pm on election day by the local board or the Board of Elections at which the provisional ballot status shall be removed and the ballot will be counted as a mail ballot. The state board shall place the “Disqualified Provisional Ballot Envelopes” into a sealed container for storage in accordance with §17-19-39.1.

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Section 7. Tabulation Of Provisional Ballots

A. Provisional Ballots Cast At A Precinct

Provisional ballots cast at a precinct and certified pursuant to Section 6 shall be transmitted by the local board to the state board for tabulation. Upon receipt of all of the eligible provisional ballots cast in a city/town the state board shall:

- 1) Separate the “Provisional Ballot Envelopes” into the following categories:
 - a) “Full Ballots”;
 - b) “Federal Offices Only”; and
- 2) To protect voter privacy, the state board shall open all “Provisional Ballot Envelopes” certified as “Full Ballots” and separate each ballot from its “Provisional Ballot Envelope” and:
 - tabulate all “Full Ballots” and
 - upon completion of the tabulation process the state board shall place the ballots and the “Provisional Ballot Envelopes” into a sealed container that shall be returned to the local board for storage in accordance with §17-19-39.1.
- 3) To protect voter privacy, the state board shall open all “Provisional Ballot Envelopes” certified as “Federal Offices Only” and separate each ballot from its “Provisional Ballot Envelope” and:
 - tabulate all “Federal Offices Only” ballots and
 - upon completion of the tabulation process the state board shall place the ballots and the “Provisional Ballot Envelopes” into a sealed container that shall be returned to the local board for storage in accordance with §17-19-39.1.
- 4) Upon completion of the tabulation of all “Full” and “Federal Offices Only” ballots the state board shall add the number of provisional votes cast to the Election Day precinct results.

B. Provisional Ballots cast as Mail Ballots

Mail ballots of first-time registrants received at the Board of Elections that do not include the required identification shall be a provisional ballot and “disqualified” unless the required identification is received by 9:00pm on election day at the local board or the Board of Elections. If the local board or the state board receives the required identification the ballot shall be counted and processed as a mail ballot.

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Section 8. Access To Provisional Ballot Information

A. Access System To Determine Disposition Of Ballot

- 1) The Board of Elections shall maintain a website with a “link” which allows the provisional voter to enter his/her last name and “Ballot ID No.” to access the disposition of his/her ballot which shall be:
 - a) “Counted - Full Ballot”; or
 - b) “Counted - Federal Offices Only” and the reason for the disposition; or
 - c) “Disqualified – Ballot Not Counted” and the reason for the disposition.
- 2) If the provisional voter is unable to access the Board of Elections website he/she may contact the Board of Elections at (401) 222-2345 and provide his/her last name and “Ballot ID No.” to obtain the information referenced in Section 8(A)(1).

B. Confidentiality Of Provisional Ballots

Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot. Election officials during the casting, transmittal, certification and tabulation of provisional ballots shall take all necessary precautions to protect the security and confidentiality of each ballot to ensure that information related to the ballot, including its disposition, shall be restricted to the individual who cast the ballot.

Section 9. Implementation

The Board of Elections shall promulgate procedures and forms necessary to implement the within rules and regulations required by the Help America Vote Act of 2002 and the Rhode Island General Laws .

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These amended rules and regulations with regard to provisional voting are adopted this 24th day of July, 2006 pursuant to R.I.G.L. 42-35-1, *et seq.* (last filed with administrative records on 3/7/05).

Rhode Island Board of Elections

Thomas A. Iannitti
Acting Chairman

Robert Kando
Executive Director

7/26/06
date